

**Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201**

**Department of the Treasury**

Number: **200903096**  
Release Date: 1/16/2009

**Date: October 22, 2008**

**Employer Identification Number:**

**Contact Person - ID Number:**

**Contact Telephone Number:**

**LEGEND**

UIL 4945.04-04

X= Foundation  
Z= Location

Dear :

We have considered your request for advance approval of your grant-making program under section 4945(g)(1) of the Internal Revenue Code, dated July 1, 2008.

Our records indicate that X was recognized as exempt from Federal income tax under section 501(c)(3) of the Code and that it is classified as a private foundation as defined in section 509(a).

Your letter indicates that X will operate a grant-making program to make scholarship and fellowship grants to individuals for study at educational institutions that normally maintain a regular faculty and curriculum and normally has a regular organized body of students in attendance at the place where educational activities are carried on. The scholarship program is intended to enhance the educational opportunities for individuals in the state of Z who have demonstrated a high academic achievement and a focus on community service.

It is expected that X will advertise the scholarship program in local newspapers and with local high schools. X anticipates awarding between one and five scholarship grants annually.

The eligible group will consist of all individuals who reside in the state of Z who are college eligible. It is expected that X will limit the scholarship and fellowship grants for study at a designated college, university or school of higher education. If the class becomes too large, X may limit the eligible class based on factors such as intended academic study, commitment to the community and educational institution to be attended.

Interested individuals who wish to be considered for a grant will need to submit a written proposal to X. The proposal shall contain a personal statement prepared by the individual

detailing the reasons why they should be considered as a grant recipient, including a description of the individuals' prior academic performance and community service activities.

X will not award scholarship and fellowship grants based on the status of an individual being an employee of a particular employer. X will not award grants on the basis of being substantial contributors, managers, and family members that qualify as disqualified persons. X will not award grants based on services that an individual has provided to X.

The Selection Committee will consist of the Board members of X. The selection committee may be expanded in future years to include members of the community and local high schools. Members of the selection committee are not eligible to apply for the scholarship program. Relatives of members of the selection committee may apply for the scholarship program as long as they are not a disqualified person. However, any relative of an applicant will recuse himself/herself from any voting decision related to such applicant. It is expected that the Selection Committee will interview each finalist.

Selection criteria will include:

- Financial need. An applicant must submit a balance sheet accompanied by a duly executed affidavit and the applicant's prior year tax return to verify financial need.
- Demonstrations of high academic achievement. An applicant must have a grade point average in the top 1/3 of his or her class.
- A focus on community or extracurricular activities. An applicant must demonstrate involvement in regular community service or extracurricular activities and will be required to submit a statement as to how such community service or extracurricular activities have enhanced their academic and personal life.
- Course of study. An applicant must submit a statement of his or her intended course of study and what he or she hopes to achieve through that course of study.
- Recommendation letters. An applicant must submit a minimum of two recommendation letters from individuals other than family members with at least one being from a teacher at the high school the applicant attends.
- Conclusions of the Selection Committee drawn from the personal interviews.

Each scholarship will be awarded on a one year only basis. Any recipient of the scholarship program may reapply on an annual basis but must demonstrate the same selection criteria as new applicants.

All grants will be paid directly to the educational institution to be attended by the individual grant recipient. X will require that the educational institution, before receiving the grant money, sign an agreement stating that the educational institution will only use the grant funds for the intended purpose and only if the grant recipient is a student who is enrolled and in good standing. Further, X will require that the educational institution

provide an annual written progress report as to the status and grades of the grant recipient.

X will require that all grant recipients be enrolled and in good academic standing at the educational institution to which the grant is made.

X will (a) arrange and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (b) investigate diversions of funds from their intended purposes, and (c) take all reasonable and appropriate steps to recover diverted funds, ensure other grant funds held by a grantee are used for their intended purposes, and withhold further payments to grantee until X obtains grantees' assurances that further diversions will not occur and that grantees will take extraordinary precautions to prevent future diversions from occurring.

X will maintain all records relating to individual grants, including information used to evaluate grantees, identify whether a grantee is a disqualified person, establish the amount and purpose of each grant, and establish that they undertook the supervision and investigation of the grants as required.

Sections 4945(a) and (b) of the Code impose certain excise taxes on "taxable expenditures" made by a private foundation.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of subsection (g).

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to individual grants awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance if it is demonstrated that:

- (1) The grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii);
- (2) The grant constitutes a prize or award which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public, or
- (3) The purpose of the grant is to achieve a specific objective, produce a report or similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

Section 53.4945-4(c)(1) of the Regulations provides that to secure approval, a private foundation must demonstrate that:

- (i) Its grant procedure includes an objective and nondiscriminatory selection process;
- (ii) Such procedure is reasonably calculated to result in performance by grantees of the activities that the grants are intended to finance; and

- (iii) The foundation plans to obtain reports to determine whether the grantees performed activities that the grants are intended to finance.

Based on the information submitted and assuming your award programs will be conducted as proposed with a view to provide objectivity and nondiscrimination in making the awards, we have determined that your procedures for granting the awards comply with the requirements contained in section 4945(g) of the Code and that awards granted in accordance with such procedures will not constitute "taxable expenditures" within the meaning of section 4945(d)(3).

In addition, we have determined that awards made under your procedures are excludable from the gross income of the recipients subject to the limitations provided by section 117 of the Code.

This determination is conditioned on the understanding that there will be no material change in the facts upon which it is based. It is further conditioned on the premise that no grants will be awarded to foundation managers, or members of the selection committee, or for a purpose that is inconsistent with the purpose described in section 170(c)(2)(B) of the Code.

The approval of your award program procedures herein constitutes a one-time approval of your system standards and procedures designed to result in awards which meet the requirements of section 4945(g)(1) of the Code. This determination only covers the grant programs described above. Thus, approval shall apply to subsequent award programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

Any funds you distribute to individuals must be made on a true charitable basis in furtherance of the purposes for which you are organized. Therefore, you should maintain adequate records and case histories so that any or all award distributions can be substantiated upon request by the Internal Revenue Service.

This determination is directed only to the organization that requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as a precedent.

You must report any future changes in your grant making procedures. Please keep a copy of this letter in your permanent records.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Robert Choi  
Director, Exempt Organizations  
Rulings and Agreements